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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,151	08/28/2006	Michel Ramus	930108-2020	9822
7590 07/09/2008				
Ronald R Santucci Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151			EXAMINER GIRMA, FEKADESEELASS	
			ART UNIT 4163	PAPER NUMBER
			NOTIFICATION DATE 07/09/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

# Office Action Summary

## Application No.

10/542,151

## Applicant(s)

RAMUS, MICHEL

## Examiner

FEKADESELESSIE GIRMA

## Art Unit

4163

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-8 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 13 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/CIS)  
Paper No(s)/Mail Date 07/13/2005

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. (See MPEP 2171- 2174).

1. Claims 1 - 8 provide for the use of the transmitter-receiver of commands consisting of frequency-modulated RF signal of claims 4-8, where the claim recites "a method for using command transmitter and bi-directional command transmitter-receiver of claims 1-3 to transmit and receive signals," but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103 (a) as being unpatentable over US Patent applications Publication 2002/0163440 (Tsui) in the view of US Patent 6654428 (Bose)

1. With regard claim 1 Tsui teaches a method of communication between a command transmitter (0009) and a bi-directional command transmitter-receiver (0020 & 0022) that are intended for the control of elements ensuring the security and/or comfort of a building. However, Tsui did not explicitly disclose the same communication device used to transmit and receive at different modulation

protocol for transmitting command signal and programming signal. In the same field of endeavor, Bose discloses the communication of control commands from the command transmitter to the command transmitter-receiver or from the transmitter-receiver to other elements, being done by way of frequency-modulated RF signals, wherein, in a programming mode, the command transmitter-receiver activates and interrupts successively the transmission of electric signals normally used for communication by frequency modulation, so as to send information to the command transmitter by way of amplitude-modulated RF signals (col. 14 line 15 – 20 & 46 – 60 & col. 9 line 56 – 61). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the methods for wireless communication taught by Bose in to the teaching of Tsui in order to achieve the programming environment which will facilitate the user to allow programming without interference as well as command control to be changed dynamically.

2. With regard claim 2 Tsui in view of Bose teaches the limitation of claim 1 as discussed above. Tsui further teaches the information sent to the command transmitter is a series of transmissions and of interruptions of transmissions of a carrier that are carried out by means of transmissions of frequency-modulated RF signals of the command transmitter receiver (0032).

3. With regard claim 3 Tsui in view of Bose teaches the limitation of claim 1 as discussed above. Tsui further teaches the information comprises an identification code (0032).

4. With regard claim 4 Tsui in view of Bose teaches A transmitter-receiver of commands consisting of frequency-modulated RF signals, comprising an antenna (0028) linked to: means of reception (0022) of frequency-35 modulated RF signals, and to means of transmission (0028) of frequency-modulated RF signals, which comprises means of activation (0022). However, Tsui did not explicitly disclose interrupting of command signal during programming. In the same field of endeavor, Bose discloses disabling of the means of transmission (col. 9 lines 56 – 61). Therefore it would have been obvious to one ordinary skill in the art at the time of invention to use the methods for programming taught by Bose in to the teaching of Tsui in order to perform programming without interference from a command control signal and secure the programming code from intruders.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent application Publication 2002/0163440 (Tsui) in the view of US Patent 6654428 (Bose) in further view of US Patent No. 5661804 (Dykema).

5. With regard claim 5 Tsui in view of Bose teaches the limitation of claim 4 as discussed above. Tsui in view of Bose did not explicitly disclose control logic circuit controls the enablement and disablement of transmission amplifier. However, Dykema teaches the means of activation and of disabling allow the activation and disabling of an amplifying circuit of the transmission means (Col. 12 line 41 – 48 & Fig 6A). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to

use a trainable transceiver capable of learning variable code taught by Dykema in to the teaching of Tsui in view of Bose in order to prevent transmission of signal during a learning mode.

6. With regard claim 6 Tsui in view of Bose and in further view of Dykema teaches the limitation of claim 5 as discussed above. Dykema further teaches the means of activation and of disabling of the amplifying circuit comprise a logic processing unit and a control circuit (Col. 12 line 41 – 48 & Fig 6A). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use a trainable transceiver capable of learning variable code taught by Dykema in to the teaching of Tsui in view of Bose in order to determine the appropriate code to transmit based upon the time in manner defined by the identification code.

7. With regard claim 7 Tsui in view of Bose in further view of Dykema teaches the limitation of claim 5 as discussed above. Dykema further teaches the means of activation and of disabling comprise means of control of the power supply of the amplifying circuit (Col. 15 line 22 – 26 & Fig 6A). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use a trainable transceiver capable of learning variable code taught by Dykema in to the teaching of Tsui in view of Bose in order to use the recovered power efficiently.

8. With regard claim 8 Tsui in view of Bose in further view of Dykema teaches the limitation of claim 4 as discussed above. Bose further teaches at least one command transmitter furnished with means for transmitting frequency-modulated RF signals and with means for receiving amplitude-modulated RF signals (col. 14 line 15 – 20 & 46 – 60 &

col. 9 line 56 – 61). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the methods for wireless communication taught by Bose in to the teaching of Tsui in view of Dykema in order to achieve the programming environment which will facilitate the user to allow programming without interference as well as command control to be changed dynamically.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 4245347 (Hutton), US Patent 4979549 (Begle), US Patent 6798336 (Kanda), US Patent Application Publication 2002/0181427 (Sparr), US Patent Application Publication 2004/0207537 (Keller), US Patent Application Publication 2003/0067895, teaches a method of wireless communication between programmable transceiver with plurality of signals configurations, including code format, modulation format, and frequency.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FEKADESELAASSIE GIRMA whose telephone number is (571)270-5886. The examiner can normally be reached on Monday thru Friday, 8:30-5:00, every other Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Robinson can be reached on 571-272-2319. The

fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)? If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FG

/Mark A. Robinson/

Supervisory Patent Examiner, Art Unit 4163